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December 23, 1996

By Hand Delivery

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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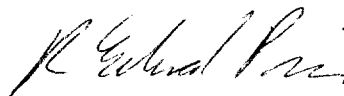
Re: Rural Telephone Coalition
Petition for Partial Reconsideration
CC Docket No. 96-61

Dear Mr. Caton:

Transmitted herewith, on behalf of the Rural Telephone Coalition (RTC), are an original and eleven copies of RTC's Petition for Partial Reconsideration in CC Docket No. 96-61.

If there are any questions concerning this matter, please contact the undersigned.

Very truly yours,



R. Edward Price

Enclosure

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)
)
Policy and Rules Concerning the)
Interstate, Interexchange)
Marketplace)
)
)
Implementation of Section 254(g))
of the Communications Act of 1934,)
as amended)

CC Docket No. 96-61

PETITION FOR PARTIAL RECONSIDERATION

The Rural Telephone Coalition (RTC) hereby petitions the Federal Communications Commission (FCC or Commission) to reconsider certain aspects of its Second Report and Order (SR&O) in the above-captioned proceeding.

I. INTRODUCTION

RTC is an alliance of the National Rural Telcom Association (NRTA), the National Telephone Cooperative Association (NTCA), and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). These associations together represent more than 850 local exchange carriers serving rural areas throughout the United States.

The RTC is primarily concerned with provisions in the Commission's SR&O that will impede enforcement of the geographic rate averaging and rate integration requirements of the Telecommunications Act of 1996 by the rural customers those requirements were intended to

benefit. Those statutory requirements were designed to overcome the incentives toward geographic interexchange rate deaveraging among interexchange carriers (IXCs). As low-cost urban routes become subject to greater levels of competition, interexchange carriers will be increasingly unwilling to have to recover more than their costs on those routes to prevent higher rates in high-cost rural areas. AT&T has already pressed for regional deaveraging and longer promotions and to limit averaging to residential rates.

The RTC realizes that the Commission imposed its requirements for annual certifications by IXCs as to their compliance with rate averaging and integration requirements and for making rate information available to the public at one location to enable consumers to enforce the law. However, these requirements fall far short of ensuring that the IXCs will comply with the will of Congress. Through this Petition, the RTC urges the Commission (a) to strengthen its public disclosure provisions, (b) to use its access charge proceeding to facilitate geographic rate averaging and (c) to provide enough support for access charges in high-cost areas to minimize the IXCs' incentives to deaverage. All three measures would serve to advance the Congressional and FCC rate averaging mandates and would better respond to the significant incentives for IXCs to deaverage their rates.

II. THE COMMISSION HAS IMPROPERLY FORBORN FROM REQUIRING ADEQUATE PUBLIC INFORMATION TO PRESERVE AND EXTEND GEOGRAPHIC RATE AVERAGING

In the SR&O, the Commission recognized that for the Section 208 enforcement process to be effective in enforcing the rate averaging and integration requirements -- in the absence of tariffs -- IXCs would have to make their rate information available to the public. According to the Commission, "publicly available information is necessary to ensure that consumers can

bring complaints, if necessary, to enforce those requirements.” SR&O ¶ 84. In fashioning its disclosure requirement, however, the Commission has decided to require only that carriers “make such information available to the public in at least one location during regular business hours.” Id. ¶ 86.

The SR&O rejects the claim that without tariffs, consumers and other parties will lack sufficient information to challenge the lawfulness of rates on the grounds that consumers will receive rate information through the billing process and carrier notifications. Id. ¶¶ 25, 39. Recognizing both consumers’ need for information as to the best rate plan for their particular situation, and “considerations regarding enforcement of . . . geographic rate averaging and rate integration,” the Commission decided to require nondominant interexchange carriers to maintain price and service information and to make such information available on a timely basis to the Commission upon request. Id.

The Commission recognized that in competitive markets carriers would not necessarily maintain geographically averaged and integrated rates and therefore concluded that carriers should make available to the public the information needed to verify compliance with Section 254(g) of the 1996 Act. Id. ¶ 84. In particular it required information on current rates, terms and conditions for all interstate domestic interexchange services in an easy to understand format in a timely manner. Id. This much is at least partially in agreement with the recommendations of the RTC in this proceeding that such information should be filed with the Commission.¹ However, the Commission then adopts posting requirements that will, in

¹See Comments of the Rural Telephone Coalition, Apr. 19, 1996, at 3-7; Reply Comments, May 3, 1996, at 16-18.

reality, make the necessary information inaccessible to consumers. Concerned about the “burden” on interexchange carriers, the Commission refused to prescribe either the format or the location in which such information must be made available or to require that it be made available on line, other than that it must be available at one location during regular business hours.² Id.

This decision will effectively preclude all but the most tenacious of rural consumers from determining whether his or her rates are “no higher than the rates charged . . . in urban areas.” There is no rational basis for concluding that consumers need the information, and then ruling that a consumer in Alaska, Hawaii, Idaho or even Washington, D.C., must go to a single location picked by AT&T, such as Basking Ridge, New Jersey, to find out if he or she is being overcharged. The only rational explanation is that the Commission wishes to make it as difficult as possible for valid complaints to be filed alleging violations of Section 254(g).

On reconsideration, the Commission can certainly find more consumer-friendly ways of making information available that will not overburden the likes of AT&T and MCI. It is somewhat amazing, with all the promotion of the wonders of the information age by both the Commission and the interexchange carriers, that an Internet posting is considered too much to require. Further, once the information is developed to be made available in Basking Ridge, it hardly seems that there is much more burden to expect AT&T, et al., to disseminate the

²While the SR&O considers putting rate information on line too burdensome for carriers such as AT&T and MCI, a majority of the Commission has agreed to a Joint Board recommendation that any school desiring to make use of the discount provisions of Section 254(h) must cause its services orders to be posted on a website. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3, released Nov. 8, 1996, ¶ 539.

information to a public office in each state in which they operate, as well as to the Attorney General or other chief consumer protection officer in the state and the state public service commission. Without such effective dissemination, the Commission will have made a mockery of Congress' efforts to ensure continuation of averaged and integrated interexchange rates.

The Commission should reexamine its disclosure requirement and significantly strengthen the current measures. An immediate addition should be to require that IXC's make full information available to customers on-line and provide a certified copy on request. Customers could then be more effective in enforcing the 1996 Act's rate averaging and integration requirements through the Section 208 complaint process. Although the Commission says it has concerns over potential anticompetitive behavior and wants to avoid overly burdensome filing requirements, such disclosure requirements are the indispensable minimum regulatory involvement.

III. INCENTIVES TO DEAVERAGE RATES MUST BE REDUCED THROUGH SUPPORT FOR TRAFFIC SENSITIVE ACCESS CHARGES IN HIGH-COST AREAS

In an increasingly competitive environment, the increased pressure on IXC's to drive rates toward their actual cost will jeopardize the ability of rural customers to be charged the "just, reasonable and affordable" and "reasonably comparable" rural and urban -- i.e., averaged -- interexchange rates that the 1996 Act requires. See 47 U.S.C. § 254(b)(1), (3). The Act's mandate that all interexchange carriers -- not just the interexchange provider of last resort -- must average is a positive step. However, as the large IXC's begin to face increased competition from Bell Operating Companies (BOCs) and others centered in densely populated urban centers and regional providers face different costs of access, there will be ever greater

incentives to deaverage rates. AT&T has already begun insisting -- as yet without success -- on regional deaveraging, more limited rate averaging (i.e., "residential") and deaveraging via longer "promotional" rates. And the Joint Board's Recommended Decision in CC Docket No. 96-45 has even abandoned the use of Long Term Support to average the common line access charges of NECA common line pool. Joint Board ¶ 767.³

Fairly and effectively counterbalancing this trend will necessitate effective enforcement and detection of unauthorized deaveraging. Ending tariffs and curtailing public information availability adds to the disincentives to average. Only effective action to get at the root of the unlawful toll deaveraging incentives can be harmonized with broad forbearance.

Consequently, the Commission should further implement the rural and urban rate and service comparability and rural interexchange access principles in Section 254(b)(3) of the 1996 Act by using universal service support. It should provide "sufficient" support, see 47 U.S.C.

§ 254(e), to reduce the rural/urban common line and traffic sensitive access charge disparities that drive IXCs toward deaveraging rural rates. The location of the averaging provision in the universal service provision demonstrates that it can and should be preserved and advanced through the federal support mechanisms. This necessity should play a prominent role in the incipient access charge reform proceeding. Providing support to eligible carriers with above-average access charge revenue requirements will not only deal directly with incentives to deaverage IXC rates, in violation of the Act, but will also encourage more IXCs to serve rural

³We recognize that the Joint Board has provided for frozen interim Long Term Support payments, but these are not provided in the long term plan and do not provide dynamic stability.

areas.

IV. CONCLUSION

Effective implementation of Congress's geographic rate averaging and rate integration requirements -- integral parts of the overall goal of universal service -- requires that sufficient rate information be centrally located, either with the Commission itself or on-line. Without easy access to this information, the ability of customers, the Commission and the states to enforce rate averaging through the complaint process will be gutted.

Effective rate averaging requires direct action to curb increasing incentives to deaverage. Support for traffic sensitive and common line access charges for rural areas is the only effective way of enforcing the averaging requirements of Section 254(g). Such measures would comply not only with the letter and spirit of the mandates of Congress but also with the public interest in an extensive, advancing and accessible public switched telecommunications

network that lets all parts of the United States participate fully in the information economy and society.

Respectfully submitted,

THE RURAL TELEPHONE COALITION

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